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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/447,030

11/22/1999

RAINALD FORBERT

AE97/151US

3281

7590

09/21/2010

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EXAMINER

NGUYEN, NGOC YEN M

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

09/21/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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SEP 21 2010

In re application of
Forbert

Serial No. 09/447,030

Filed: November 22, 1999

For: METHOD FOR PRODUCING SUBSTANTIALLY
GLOBULAR LYOGELS AND AEROGELS

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:
: DECISION ON
: PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on May 13, 2010 to withdraw the final status of the Office Action dated March 16, 2010.

In response to the previous Office Action mailed June 29, 2009, Applicants amended claims 26, 27 and 28 to specify that the lyosol or hydrosol is introduced into an atmosphere flowing (rather than "which flows") substantially against the direction of gravity. In the Final Office action dated March 15, 2010 the Examiner introduces a new rejection under 35 USC 103(a) as being unpatentable over WO 95/00617 in view of Fernholz '199 (a reference previously applied by the Examiner).

WO 95/00617 does not address an atmosphere flowing substantially against the direction of gravity. A new ground for rejection that involves this reference could not have been necessitated by Applicants amendment of the claims. A review of the record does not indicate that the new ground for rejection is based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

DECISION

The petition for withdrawal of finality is GRANTED.

/W. GARY JONES/
W. Gary Jones, Director
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